97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-313

STANDBY PETROLEUM ALLOCATION ACT OF 1982

FEBRUARY 17, 1982.—Ordered to be printed

Filed under authority to the order of the Senate of February 11 (legislative day, January 25, 1982

Mr. MCCLURE, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 1503]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1503) to authorize the President to allocate supplies of crude oil, residual fuel oil, and refined petroleum products during a severe petroleum supply shortage, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Standby Petroleum Allocation Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Amendment to the Energy Policy and Conservation Act.

"PART C—STANDBY PETROLEUM ALLOCATION

"Sec. 271. Congressional findings.
"Sec. 272. Purposes.
"Sec. 273. Definitions.
"Sec. 274. Promulgation of regulation.
"Sec. 275. Implementation of regulation.
"Sec. 276. Administration of regulation.

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"Sec. 277. Crude-sharing program.
"Sec. 278. General limitations on authority.
"Sec. 279. Limitation on authority over certain inventories.
"Sec. 280. Preemption.
"Sec. 281. Contract liability.
"Sec. 282. Effect of prior law.
"Sec. 283. Enforcement and administration.
"Sec. 284. Information.
"Sec. 285. Coordination with other authorities.
"Sec. 286. Delegation of Presidential authorities.
"Sec. 287. Expiration.".
Sec. 3. Impact study.
Sec. 4. Oil storage tax incentive study.
Sec. 5. International cooperation study.
Sec. 6. Extension of certain international energy program authorities.

AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT

SEC. 2. (a) Title II of the Energy Policy and Conservation Act, relating to standby energy authorities, is amended by adding at the end thereof the following new part:

"PART C—STANDBY PETROLEUM ALLOCATION

"CONGRESSIONAL FINDINGS

"SEC. 271. The Congress finds that—

"(1) shortages of petroleum products caused by reductions in imports of petroleum products may occur at any time;

"(2) such shortages could be sufficiently large to cause severe economic dislocations and hardships within various segments of the economy, both regional and national, and constitute a threat to the public health, safety, and welfare; and

"(3) the national security and economic well-being of the United States require that the President have authority, during a severe petroleum supply shortage, to allocate petroleum products so as to minimize adverse effects on the public health, safety, and welfare.

"PURPOSES

"SEC. 272. The purposes of this part are—

"(1) to grant to the President limited and temporary authority to allocate petroleum products, in his discretion, in the event of a severe petroleum supply shortage; and

"(2) to minimize the adverse impacts of such a shortage on the American people and the domestic economy.

"DEFINITIONS

"SEC. 273. For purposes of this part—

"(1) the term 'severe petroleum supply shortage' means a national or regional petroleum supply shortage which the President determines—

"(A) results, or is likely to result, from an interruption in petroleum product imports or from sabotage, accidents, or an act of God;

"(B) is, or is likely to be, of significant scope and duration;

"(C) may (i) cause a major adverse impact on the national security, the national economy, or the economy of any region of the United States, or (ii) threaten the public health, safety, and welfare; and

"(D) may not be reasonably manageable under other authorities available to the President or by reliance on free market pricing and allocation;

"(2) the term 'region' means any geographic area or areas within the United States comprising one or more States or political subdivisions thereof; and

"(3) in applying the definitions of 'State' and 'United States' in paragraphs (4) and (5) of section 3 of this Act, the term 'territory or possession' includes the Trust Territory of the Pacific Islands.

"PROMULGATION OF REGULATION

"SEC. 274. (a)(1) Not later than 180 days after the date of the enactment of this part, the President shall promulgate and transmit to the Congress a standby regulation which provides for the mandatory allocation (if implemented pursuant to this part) of petroleum products under this part.

"(2) In promulgating the standby regulation required under paragraph (1), the President shall, in addition to any other requirement of law—

"(A) provide for notice and opportunity for public hearings in various regions of the United States; and

"(B) provide for opportunity for participation by Executive departments of the Federal Government in the formulation of the standby regulation and in the hearings provided under subparagraph (A), in a manner prescribed by the President.

"(3) Until the regulation required under paragraph (1) is transmitted to the Congress, the President shall prepare and transmit to the Congress a bimonthly status report indicating the progress taken towards the promulgation of the regulation.

"(b) Subject to the following requirements of this section, any regulation under this section may be amended by the President at any time after it is promulgated.

"(c)(1) The standby regulation required under subsection (a)(1), and any other regulation under the authority granted by this part, may include limitations on the price of any petroleum product only if the President finds that such limitations are necessary to ensure effective implementation of such regulation. Such limitations may include provisions restricting discriminatory pricing.

"(2) Any finding by the President under paragraph (1) shall not be subject to judicial review.

"(d) Subject to the implementation requirements of section 275, the standby regulation promulgated under subsection (a), and any amendment to such regulation (other than a technical or clerical amendment)—

"(1) shall be transmitted to the Congress; and

"(2) a period of 30 calendar days shall be permitted to elapse after such transmittal.

The 30-calendar-day requirement of paragraph (2) shall not apply while there is in effect a determination by the President of a severe petroleum supply shortage.

"IMPLEMENTATION OF REGULATION

"SEC. 275. (a)(1) If—

"(A) there is in effect a determination by the President of a severe petroleum supply shortage, and

"(B) notice of such determination, and of the President's intent to implement the regulation promulgated under section 274, and a copy of such regulation (including any amendment thereof), have been transmitted to the Congress in accordance with section 551, and neither House of Congress, in accordance with the procedures specified in section 551, has disapproved (or both Houses have approved) implementation of such regulation, the President may implement such regulation, providing for the allocation of any petroleum product throughout the United States or in any region of the United States. Such regulation may apply to any petroleum product produced in or imported into the United States.

"(2) The Congressional review requirement of paragraph (1)(B) shall apply to any amendment to a regulation authorized to be implemented under paragraph (1) only if—

"(A) the amendment is promulgated during the implementation period permitted under subsection (b)(1),

"(B) the amendment is not a technical or clerical amendment, and

"(C) the amendment would expand the scope of the President's authority under such regulation by extending the application of the regulation (i) to one or more additional regions or categories of petroleum products, (ii) from only end-user allocation to inclusion of a crude-sharing program, or (iii) from only a crude-sharing program to inclusion of end-user allocation.

"(b)(1) Any regulation implemented under this section may not remain in effect after the 90-day period which begins on the date on which the authority to implement any such regulation first becomes effective, except that the implementation authority for any such regulation may be extended by the President for up to 60 additional days, upon his express finding that—

"(A) the severe petroleum supply shortage continues in effect, and

"(B) such authority must be continued to meet the purposes of this part.

"(2) Thereafter, the authority of the President to implement any regulation under section 274 shall terminate, unless pursuant to subsection (a) the President makes a new determination and new transmittal to Congress which are not disapproved by the Congress under subsection (a)(1).

"(c) Should the President implement a program under section 274 for the allocation of residual fuel oil or any refined petroleum product, such program shall provide for a State set-aside of residual fuel oil or any refined petroleum product if such residual fuel oil or re-

fined petroleum product is allocated in such State pursuant to the Federal program.

"ADMINISTRATION OF REGULATION

"SEC. 276. Administration of any regulation promulgated under section 274 shall, to the maximum extent practicable, provide for—

"(A) protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;

"(B) maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

"(C) maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

"(D) preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

"(E) the allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

"(F) equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto;

"(H) economic efficiency; and

"(I) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

"CRUDE-SHARING PROGRAM

"SEC. 277. (a)(1) The standby regulation under section 274 shall include an optional standby crude oil sharing program promulgated in accordance with this section. Should the President decide to implement a program under this part requiring the sharing of crude oil among refiners, that program shall comply with the provisions of this section.

"(2) Any notice of intent to implement a crude-sharing program under this section shall be accompanied by a declaration by the President that such program is likely to result in a significant reduction in anticipated adverse impacts of a severe petroleum supply shortage and thereby benefit consumers as a whole.

"(b) When implemented, any program under this section shall, to the maximum extent practicable—

"(1) minimize the rate of increase in the price of petroleum products during a severe petroleum supply shortage by providing reasonable access to crude oil by specified refiners;

"(2) fairly distribute the burdens of a severe petroleum supply shortage, including such a shortage resulting from an international allocation of petroleum by the United States to foreign countries under the international energy program;

"(3) minimize adverse impacts on consumers served by refiners whose supplies of crude oil have been disproportionately reduced during a severe petroleum supply shortage;

"(4) aid in the equitable distribution of crude oil, at equitable prices, among domestic refiners to the extent determined necessary by the President to effectively deliver needed refined petroleum products to consumers;

"(5) encourage the maintenance by refiners of petroleum product inventories and the acquisition by refiners of secure supplies of crude oil;

"(6) result in the availability of needed refined petroleum products to consumers; and

"(7) achieve the purposes of this part with minimum interference with market mechanisms.

"(c) The program under this section shall provide a mechanism to—

"(1) identify those refiners which will be required to sell, and those refiners which will be offered an opportunity to buy, crude oil;

"(2) determine the extent to which the program will offset the disproportionate impact of reduced supplies of crude oil on the ability of a refiner to provide needed refined petroleum products;

"(3) specify the amount of, and terms and conditions and an equitable price for, crude oil sold under the program;

"(4) decide whether any requirement that a refiner sell crude oil under the program should be reduced because such requirement is likely to create an unreasonable burden on such refiner or be otherwise inconsistent with the purposes of this part; and

"(5) assure, by certification or otherwise, that, to the maximum extent practicable, any benefits or burdens of the program for any refiner are passed on to that refiner's customers on a nondiscriminatory basis.

"GENERAL LIMITATIONS ON AUTHORITY

"SEC. 278. The President shall have no authority under this part to—

"(1) impose or implement any tax, tariff, or user fee;

"(2) prescribe minimum prices for any petroleum product; or

"(3) establish or implement a program for the assignment of rights for end-user purchases of gasoline or diesel fuel, as described in section 203(a)(1)(A) and (B) of this Act.

"LIMITATION ON AUTHORITY OVER CERTAIN INVENTORIES

"SEC. 279. (a) The President shall have no authority under this part to—

"(1) provide for the allocation of consumer petroleum inventories,

"(2) impose restrictions on the consumption of such inventories, or

"(3) consider or take into account the existence or size of such inventories in determining the amount of petroleum products to be allocated to any such consumer.

"(b) For purposes of this section—

"(1) The term 'consumer petroleum inventory' means an inventory of residual fuel oil and refined petroleum products which is—

"(A) held by and in the custody of a consumer (other than a refiner, except to the extent provided in paragraph (3)) for such consumer's own end-use consumption,

"(B) held by and in the custody of such consumer on the day before the date the President determines pursuant to section 275(a)(1)(A) that a severe petroleum supply shortage exists, and

"(C) not thereafter sold by such consumer, but only to the extent that such inventory does not exceed the inventory of residual fuel oil and refined petroleum products held by and in the custody of that consumer for its own end-use consumption on the 30th day prior to the date of that determination.

"(2) The term 'held by and in the custody of', when used with respect to an inventory, means—

"(A) any such inventory owned by the consumer and in the direct possession of the consumer, such as on the consumer's site, and

"(B) at the discretion of the President, any other inventory owned by a consumer.

"(3) The term 'end-use consumption', in the case of an inventory of residual fuel oil and refined petroleum products of any consumer which is a refiner, means—

"(A) the use by the refiner of such residual fuel oil and refined petroleum products to meet normal fuel requirements necessary for operating refinery equipment and facilities for the duration of a severe petroleum supply shortage, including an extension of 60 days under section 275(b)(1), and

"(B) at the discretion of the President, any other use by the refiner.

"(c) Notwithstanding subsection (a), the President may consider or take into account the existence or size of the consumer petroleum inventories held by a consumer in determining whether or not to in-

crease the otherwise applicable allocation under this part to that consumer if the consumer petitions for such increase.

"(d) If any inventory which qualifies as a consumer petroleum inventory is subsequently sold by the consumer, such inventory shall be subject to the authority of the President under this part, effective as of the time of such sale.

"PREEMPTION

"SEC. 280. (a) Except as provided in subsections (b) and (c), the enactment of this part supersedes and preempts any provision of any law or regulation adopted or promulgated by a State or any political subdivision thereof to the extent that such law or regulation provides for the pricing or allocation of any petroleum product.

"(b) The President may, by rule, exempt from the operation of subsection (a) classes or categories of laws or regulations which would otherwise be preempted under subsection (a), to the extent that the President determines that such laws or regulations would—

"(1) preserve a significant State or local interest;

"(2) not unduly burden interstate commerce; and

"(3) not significantly conflict with or impede operation of this part, achievement of the purposes of this part, or achievement of the objectives of any regulation under section 274.

"(c)(1) The Governor of any State may notify the President of the Governor's intent to implement, under State law and in accordance with the requirements of this subsection, a State set-aside program for residual fuel oil or any refined petroleum product.

"(2) For purposes of this subsection, the term 'State set-aside program' means, with respect to residual fuel oil or any refined petroleum product, a program administered by the State under State law during a period in which no State set-aside program is provided for under section 275(c) with respect to that petroleum product in that State and which—

"(A) is implemented only upon a determination by the Governor that the program is required to meet a petroleum supply shortage within the State which will significantly impair essential public services or essential economic activity;

"(B) continues in effect for no more than 90 days;

"(C) authorizes the Governor to require a prime supplier of residual fuel oil or any refined petroleum product subject to the program to set aside in any month a volume of such petroleum product for distribution under the program which volume does not exceed 5 percent of the total supply, as estimated by such supplier, of such petroleum product which will be sold by the supplier in the State for consumption within the State in that month;

"(D) defines a prime supplier as a supplier which makes the first sale of that petroleum product subject to the State set-aside into the State distribution system for consumption within the State; and

"(E) does not unduly burden interstate commerce.

"(3)(A) The Governor shall provide the President with notice under paragraph (1), accompanied by a request for approval of the State set-aside program the Governor intends to implement, at least

10 days prior to the date on which the Governor intends to implement the program.

"(B) Within 10 days after receipt of such notice and request transmitted by the Governor, the President shall, in his discretion, either approve or disapprove such request and notify the Governor of the President's action.

"(C) To the extent that the President approves the request within such 10-day period, the program shall then be exempt from the operation of subsection (a).

"(D) If the President does not approve such request within such 10-day period, the request shall be considered disapproved and the program shall not be exempt under this subsection from the operation of subsection (a).

"(E) The President's approval of any program under this subsection may be in whole or in part; but only so much of any State set-aside program as the President approves under this paragraph may be implemented.

"(4) Notwithstanding the 90-day limitation in paragraph (2)(B), an exemption under this subsection allowing implementation of any State set-aside program may be extended if the Governor transmits a notice and request therefor to the President. For such purposes, the preceding provisions of this subsection shall apply with respect to any notice and request for such an extension as if it were for exemption for initial implementation.

"(5) Any approval or disapproval by the President of a request under paragraph (3) shall not be subject to judicial review.

"CONTRACT LIABILITY

"SEC. 281. There shall be available as a defense to any action brought for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange any petroleum product, that such delay or failure was caused solely by compliance with the provisions of any regulation or order issued pursuant to authority granted under sections 274 and 275.

"EFFECT OF PRIOR LAW

"SEC. 282. Nothing in this part shall be construed to require that any action taken under the authority of this part, including allocation of, or the imposition of price controls on, petroleum products, be taken in a manner which would have been required under the Emergency Petroleum Allocation Act of 1973 had that Act not expired.

"ENFORCEMENT AND ADMINISTRATION

"SEC. 283. (a) Whoever violates the requirements of the standby regulation or any regulation or order issued pursuant to authority granted by this part shall be subject to a civil penalty not to exceed $40,000 for each violation.

"(b)(1) Except as provided in paragraph (2)—

"(A) sections 205 (other than 205(b)), 206, 209, and 210 of the Economic Stabilization Act of 1970 (12 U.S.C. 1904, note) shall apply to any regulation promulgated under section 274, to any

order under this part, and to any action taken by the President (or his delegate) under this part, as if such regulation had been promulgated, such order had been issued, or such action had been taken under the Economic Stabilization Act of 1970; and

"(B) sections 212 (other than 212(b)) and 213 of such Act shall apply to functions under this part to the same extent such sections would apply to functions under the Economic Stabilization Act of 1970.

"(2) The expiration of authority to issue and enforce orders and regulations under section 218 of such Act shall not affect any authority to amend and enforce the regulation or to issue and enforce any order under this part, and shall not affect any authority under sections 212 and 213 insofar as such authority is made applicable to functions under this part.

"(c) Any penalty under subsection (a) may be assessed by the court in any action brought in any appropriate United States district court. Any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

"INFORMATION

"SEC. 284. For purposes of this part, the President or his delegate shall, pursuant to authority otherwise available to the President or his delegate under any other provision of law, collect information on the pricing, supply, and distribution of petroleum products at the wholesale and retail levels, on a State-by-State basis. Such information shall be substantially of the same type as was collected during September 1981 by the Energy Information Administration in connection with the Emergency Petroleum Allocation Act of 1973.

"COORDINATION WITH OTHER AUTHORITIES

"SEC. 285. Nothing in this part affects any authority under any other provision of Federal law to provide for the allocation or pricing of any petroleum product.

"DELEGATION OF PRESIDENTIAL AUTHORITIES

"SEC. 286. (a) The President may delegate all or any portion of his authority to administer any regulation promulgated under section 274 to any State (or officer thereof), as he deems appropriate.

"(b) The President may not delegate any of his authority under this part to any Federal officer or agency of the United States except to officers or agencies of the Department of Energy or of any successor thereof.

"(c) The President may not delegate authority—

"(1) to determine any severe petroleum supply shortage under section 275;

"(2) to make any declaration under section 277(a)(2) respecting a crude-sharing program; or

"(3) to approve or disapprove any request under section 280(c) regarding preemption of State set-aside programs.

"EXPIRATION

"SEC. 287. (a) All authority under this part, and any regulation or order issued pursuant to such authority, shall expire at the end of December 31, 1984.

"(b) The expiration of authority under this part, or any regulation issued pursuant to such authority, shall not affect any action or pending proceeding, administrative or judicial, not finally determined at the time of such expiration, or any action or proceeding based upon any act committed or liability incurred prior to such expiration.".

(b)(1) Section 522(a)(1) of such Act (42 U.S.C. 6392(a)(1)) is amended by inserting after the term "This Act" the following: "(other than part C of title II)".

(2) Section 523(a)(2)(B) of such Act (42 U.S.C. 6393(a)(2)(B)) is amended by striking out "or II of this Act or this title" and all that follows down through "shall" and inserting in lieu thereof the following: "or II (except part C thereof) of this Act or this title (other than any provision of such titles which amend another law) shall".

(3) Section 525 of such Act (42 U.S.C. 6395) is amended by adding at the end thereof the following:

"(f) This section shall not apply with respect to any violation of section 524 based on a violation of part C of title II or any rule, regulation, or order issued under authority granted by such part.".

(4) Section 526 of such Act (42 U.S.C. 6396) is amended by striking out "(other than any provision of" and inserting in lieu thereof the following: "(other than part C of title II or any provision of".

(c) The table of contents for such Act is amended by inserting after the items relating to part B of title II the following new items:

"PART C—STANDBY PETROLEUM ALLOCATION

"Sec. 271. Congressional findings.
"Sec. 272. Purposes.
"Sec. 273. Definitions.
"Sec. 274. Promulgation of regulation.
"Sec. 275. Implementation of regulation.
"Sec. 276. Administration of regulation.
"Sec. 277. Crude-sharing program.
"Sec. 278. General limitations on authority.
"Sec. 279. Limitation on authority over certain inventories.
"Sec. 280. Preemption.
"Sec. 281. Contract liability.
"Sec. 282. Effect of prior law.
"Sec. 283. Enforcement and administration.
"Sec. 284. Information.
"Sec. 285. Coordination with other authorities.
"Sec. 286. Delegation of Presidential authorities.
"Sec. 287. Expiration.".

IMPACT STUDY

SEC. 3. (a)(1) The President shall analyze the impact on the domestic economy and on consumers in the United States of reliance—

(A) on market allocation and pricing during a severe oil supply shortage; and

(B) on the standby program pursuant to part C of title II of the Energy Policy and Conservation Act, as amended by section 2 of this Act.

(2) Such analysis shall—

(A) examine the equity and efficiency of such reliance,

(B) distinguish between the impacts of such reliance on various categories of business (including small business) and on households of different income levels, and

(C) specify the nature and administration of monetary and fiscal policies that would be followed including emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs.

Projections must be made of the effect of the disruption on Federal tax revenues, Federal royalty payments, and State and local tax revenues.

(b) Within one year after the date of the enactment of this Act, the President shall submit a full and detailed report to the Congress containing the analysis required by subsection (a) along with such recommendations as the President deems appropriate.

OIL STORAGE TAX INCENTIVES STUDY

SEC. 4. Within six months after the date of the enactment of this Act, the President shall submit a full and detailed report to the Congress on the advisability and alternative means of—

(1) reducing the tax liability of persons who draw down oil reserves during oil supply disruptions, and

(2) providing tax or other incentives for the construction of private-sector oil storage facilities and the maintenance of increased private-sector oil reserves.

INTERNATIONAL COOPERATION STUDY

SEC. 5. Within six months after the date of the enactment of this Act, the President shall submit a full and detailed report to the Congress on the manner in which oil stockpile and demand restraint measures have been and may be coordinated among some or all allies and trading partners of the United States.

EXTENSION OF CERTAIN INTERNATIONAL ENERGY PROGRAM AUTHORITIES

SEC. 6. Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "April 1, 1982" and inserting in lieu thereof "July 1, 1983".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to amend the Energy Policy and Conservation Act to authorize the President to allocate crude oil, residual oil, and other petroleum

products in the event of a severe petroleum supply shortage, and for other purposes.".

And the House agree to the same.

JAMES A. MCCLURE,
LOWELL P. WEICKER, Jr.,
PETE V. DOMENICI,
MALCOLM WALLOP,
JOHN W. WARNER,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
WENDELL H. FORD,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

JOHN D. DINGELL,
PHILIP R. SHARP,
TOBY MOFFETT,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1503) to authorize the President to allocate supplies of crude oil, residual fuel oil, and refined petroleum products during a severe petroleum supply shortage, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION 1—SHORT TITLE; TABLE OF CONTENTS

The conferees agreed to adopt the short title of the Senate bill. Thus, the Act may be cited as the "Standby Petroleum Allocation Act of 1982".

The conferees decided to include a Table of Contents in the Act.

SECTION 2—AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT

Section 271—Congressional findings

The Statement of Findings in the Senate bill was adopted by the conferees. Modifications were made to reflect the conferees' decision to rely on the definition of "petroleum product" in section 3 of the Energy Policy and Conservation Act.

Section 272—Purposes

The conferees agreed essentially to adopt the language in the Senate bill. The purposes are to grant the President limited and temporary authority to allocate petroleum products, in his discretion, in the event of a severe petroleum supply shortage, and to minimize the adverse impacts of such a shortage on the American people and the domestic economy. The use of the term "in his discretion" is intended to indicate the breadth of discretion and range of options available to the President in allocating petroleum products, but his discretion is of course subject to the limiting provi-

sions in this Part, such as section 275 (Implementation of Regulation), which provides for Congressional review, and section 276 (Administration of Regulation).

The reference in the Senate bill to the international energy program was deleted because the conferees do not intend that this Act displace any of the President's existing authority under section 251 of EPCA to meet the obligations of the United States under the international energy program.

Section 273—Definitions

Severe Petroleum Supply Shortage (Sec. 273(1)).—The conferees decided to use the term "severe petroleum supply shortage" to describe the trigger for the Federal program. In defining that term, the conferees agreed to merge the definitions contained in the Senate and House bills. Because a severe petroleum supply shortage could arise in a variety of ways, many of which may be unpredictable, the term has been defined with flexibility rather than specificity. The definition thus provides the President with broad discretion to seek the imposition of allocation controls when, in his judgment, a petroleum supply shortage is sufficiently severe to meet the general criteria specified in the definition, and may not be reasonably manageable by reliance on free market pricing and allocation or under other authorities available to the President. The President's determination of a severe petroleum supply shortage may be made on the basis of circumstances in a specific region, and is not restricted to conditions which are national in scope.

Region (Sec. 273(2)).—The term "region" means any geographic area or areas within the United States comprising one or more States or political subdivisions thereof.

Territories (Sec. 273(3)).—The conference agreement includes the Trust Territory of the Pacific Islands within the definition of "United States" due to the responsibility of the United States as administering authority for the residents of the Trust Territory. The Committee notes that the Northern Mariana Islands will continue to be included within the coverage of the Act during the post-trusteeship period due to the resolution of its status, but Palau, the Federated States of Micronesia, and the Marshall Islands are not included since their future status has not as yet been resolved. The definition of "State" in EPCA applies to Puerto Rico and Guam.

Petroleum Product.—Because the Standby Petroleum Allocation Act is an amendment to title II of EPCA, the definitions in section 3 of EPCA fully apply, including the definition of "petroleum product", which includes "crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product)."

Section 274—Promulgation of regulation

Sec. 274(a): The conferees agreed to require the President to promulgate a regulation on a standby basis within 180 days of enactment, subject then to a layover before the Senate and House of 30 calendar days. The 180-day period is meant as a deadline and the President could, of course, promulgate and transmit the standby regulation within a shorter period of time, if, for example, the

President determines a severe petroleum supply shortage under section 275.

In promulgating the regulation, the President is required to provide an opportunity for public hearings in various regions of the United States and for participation by Executive departments of the Federal Government in the formulation of the standby regulation and in the hearings. The conferees also expect interested State and local governments to comment during this period. Bimonthly status reports to the Congress on progress taken towards the promulgation of the regulation are also required.

The conferees merged the Senate and House provisions regarding the scope of this part to make clear that the standby regulation may apply to any petroleum product produced in or imported into the United States. In addition, the President's determination of a severe petroleum supply shortage is not restricted to conditions which are national in scope; the determination may also be made on the basis of circumstances in a specific "region", which may include one or more States or political subdivisions thereof.

The authority delegated to the President under this Act is intended to provide the President with maximum flexibility to implement an allocation program which is consistent with the provisions of this Act and, in his judgment, is best suited to the particular shortage at hand. Thus, subject to the provisions of this Act, the President, in his discretion, may, for example, choose to limit allocations to a single category of petroleum product, to certain classes of end-users, or to allocations of crude oil among refiners, and may choose to implement the program throughout the United States or in any region of the United States.

Sec. 274(c).—The conferees adopted the Senate provision to make clear that the standby regulations may include limitations on the price of allocated supplies only to the extent that the President finds that such limitations are necessary to ensure effective implementation of such regulations. Such limitations may include, among other types of price controls, margin controls or restrictions against discriminatory pricing.

This section contains no limitation on the kind of price controls the President could utilize with his allocation controls, provided that the President finds that any price limitations "are necessary to ensure the effective implementation of such regulation". The conferees intend that this phrase should not be read narrowly. "Effective implementation" could include achieving the purposes of the Act, the purposes of the regulation itself, or the objectives of any of the provisions of this Part.

Hence, any type of price controls, including but not limited to margin restrictions and prohibitions of discriminatory pricing (except for those types of price controls barred by section 278) is permitted if the President finds that such limitations "are necessary to ensure the effective implementation of such regulation."

While the Conference Agreement provides that there shall be no judicial review of the President's finding regarding limitations on the price of petroleum products in subsection (c), the conferees do not intend to deny judicial review in those instances in which the Constitution, despite the statutory provision implying the contrary, would provide for judicial review.

Sec. 274(d).—The standby regulation and any amendment thereto (other than a technical or clerical amendment) shall not be effective until such regulation or amendment is transmitted to the Congress and lays over for 30 calendar days. However, if a severe petroleum supply shortage is determined to be in effect, then the 30 day layover is not required.

Section 275—Implementation of the regulations

The Senate receded to the House with respect to limiting the use of the authorities in this part to severe petroleum supply shortages. Accordingly, section 251 of the EPCA is not affected by the adoption of this part and will continue to provide the President authority to implement the obligations of the United States under the international energy program.

Sec. 275(a).—The conferees merged the language in the Senate bill and the House bill regarding the procedure for implementing the regulation and the scope of the regulation. The intent of the conferees is to reconcile the Congress desire to know what it is approving, with the President's need for flexibility in a crisis. Thus if the President expressly provides, in his standby regulations submitted to and approved by Congress at the start of a crisis, that the scope of his authority in the allocation program is limited only to two refiners, and no more than that, then subsequent amendments to the allocation program to include end-user allocation throughout the nation would require new Congressional review.

Conversely, if the President's standby regulations submitted to and approved by the Congress at the start of the crisis specified that the scope of his authority in the allocation program is limited to two refiners, but also authorized the President subsequently to take such further action as he deemed necessary, *including* end-user allocation throughout the nation, then further congressional review of any amendments actually expanding the program in that manner would not be required.

The conferees also intend that the President have authority to carry out the congressionally-approved regulation by rule or by order.

Sec. 275(a)(2) provides the procedure for congressional review of certain substantive amendments during a severe petroleum supply shortage subsequent to implementation of the standby regulation. The conferees adopted a new provision to make clear that the congressional review requirement in subsection (a)(1)(B) shall apply to any amendment to a regulation authorized to be implemented only if the amendment (i) is promulgated subsequent to such authorization, (ii) is not technical or clerical, and (iii) would expand the scope of the President's authority under such regulation by extending the application of the regulation to one or more additional regions or categories of petroleum products, from only end-user allocation to inclusion of a crude sharing program or from only a crude sharing program to inclusion of end-user allocation.

Sec. 275(b).—The conferees agreed to merge the language in the Senate and House bills.

Sec. 275(c).—The conferees agreed essentially to adopt the language in the Senate bill.

Section 276—Administration of regulation

The conferees adopted the Senate provision. The considerations set forth in this provision are general objectives which reflect competing and conflicting interests. These general terms could be applied by the President in a variety of specific ways to meet and manage a particular crisis. The conferees fully recognize that, in some instances, it may be impossible to satisfy one objective without sacrificing the accomplishment of another since they are inherently contradictory. The objectives, therefore, can be implemented only to the extent practicable.

The inclusion by the conferees of Emergency Petroleum Allocation Act (EPAA) language in this provision must be interpreted in the context of the basic philosophy of this legislation: broad administrative flexibility and minimum Government intervention in the market. Hence this provision does not mandate the adoption of any particular regulatory program, much less the comprehensive regulatory scheme developed under the EPAA.

Rather, this provision represents a workable set of objectives which the President should seek to satisfy, recognizing that these objectives are inherently contradictory. The President would have the administration flexibility to determine the most practical approach, after considering the particular circumstances surrounding the shortage, and recognizing this responsibility to minimize Federal intervention in the marketplace.

Section 277—Crude-sharing

The conferees adopted a provision on crude-sharing that generally combined the provisions of the House and Senate bills regarding crude-sharing which provided for the allocation of crude oil among refiners. The President is required to promulgate the crude-sharing program authorized by section 277 as a part of the standby program under section 274 and subject to the requirements of section 275.

The intent of the conferees is that the President will include a crude-sharing program in the standby regulation under section 274 and in the event of a severe petroleum supply shortage the President, at his option, could use this program to require limited sales of crude oil among refiners. For example, in accordance with this section, the President, if he deems it appropriate, could choose to allocate crude only between two refiners in the implementation of the crude-sharing program. Use of the crude-sharing program as an intermediate step might provide the President with an effective means for coping with a petroleum shortage with a minimum of government intervention, and, in particular, without the necessity of resorting to the general price and allocation authority under this Act.

It is the intent of the conferees that prior to implementing any crude-sharing plan the President shall make a declaration that the program is likely to result in a significant reduction in anticipated adverse impacts of a severe petroleum supply shortage and thereby benefits consumers as a whole. Under section 286(c), the President may not delegate the authority to make this declaration.

In paragraph (c)(5) the use of the phrase "by certification or otherwise" describes the methods or mechanisms by which the crude-sharing program will assure that "to the maximum extent practicable, any benefits or burdens of the program for any refiner are passed on to that refiner's customers on a nondiscriminatory basis." If a refiner participating in the program were to falsely certify under this paragraph or to refuse to certify—or if the refiner did not comply with methods chosen other than certification—then the refiner would be made ineligible to purchase crude oil under this crude-sharing program. In addition, civil or criminal penalties under other law (for example, 18 U.S.C. 1001) would apply for false certification.

The methods could include certification by refiners, or any other method the President chose to accomplish the requirement of this paragraph, including the imposition of price and allocation controls within the context of the crude-sharing program.

Section 278—General limitations on authority

This section, which incorporates limitations from both Senate and House provisions, is self-explanatory.

Section 279—Limitations on authority over certain inventories

The conferees adopted a modified version of the House provision which limited the authority of the President under this part with respect to certain inventories of petroleum products held by consumers. The bill passed by the Senate contained no comparable language.

Section 279(a) lists the limitations on the President's authority. These limitations are intended to create a statutory right of protection from regulation for some consumer inventories. Section 279(b) defines terms used in section 279(a) and provides the President broad discretion to extend this protection to other consumer inventories, as well.

A consumer petroleum inventory which is afforded a statutory right of protection from regulation under subsection (a) is one that is owned and in the direct possession of a consumer on the day before the date the President determines a severe petroleum supply shortage exists. In addition, the inventory must be for such consumers' own end-use consumption, and not thereafter sold or exchanged by the consumer. In any event the amount of inventory which is protected by this section cannot exceed the amount of inventory held by and in the custody of that consumer on the 30th day prior to the date of the President's determination.

A refiner's inventories are protected in this section only to the extent they meet the definition in section 279(b)(3) which provides statutory protection for residual fuel oil or refined petroleum products which are used by the refiner to meet fuel requirements necessary for operating refiner equipment and facilities for the duration of a severe petroleum supply shortage, including an extension of 60 days.

For purposes of this section, the term "end-use consumption" when used with respect to consumers is intended to mean use (such as boiler fuel use, process use, or feedstock use) in the manufacture or processing of goods other than "petroleum products", which are

defined in section 3(3) of EPCA as "crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product)." Thus, persons that manufacture or produce "petroleum products" within the meaning of EPCA are "refiners", not "end-use consumers". As intermediaries in the petroleum product processing chain, these middlemen (including refiners, processors, or separators) are not protected by this section, except to the extent of their "necessary" fuel requirements, as defined in section 279(b)(3).

The conferees encourage the President to exercise his discretion under section 279(b)(2)(B) and section 279(b)(3)(B) to define the standby regulation those additional inventories which shall be given protection from regulation so as to encourage the building of stocks.

Section 280—Preemption

The conferees agreed to adopt the House provision on preemption with Statement of Managers language as follows:

The Senate bill and the House amendment each provided that upon enactment of the Federal law, any provision of a State law or regulation would be superseded to the extent that such law or regulation provides for allocation or pricing of petroleum products. In both cases, the President would be authorized to prescribe by rule classes or categories or exceptions to this preemption. In the case of the Senate bill the President's authority in this regard was narrower than that provided in the House amendment.

The conference substitute generally follows the House amendment. The conferees take favorable note of those expressions of intent in the legislative history in each House to the effect that the provision enacted is to be construed to create a limited preemption of State or local laws or regulations. The limits of this preemption are discussed in the following comments:

In determining whether a particular State law or regulation is encompassed by the terms "pricing" or "allocation," and is thereby preempted, it will be necessary to consider both the purpose and actual effect of the State law or regulation as well as the purposes of the preempting Federal legislation. Another consideration is whether a State law would significantly impede the operation of the Federal allocation program if implemented. Although certain laws will not be preempted upon enactment of the Act (see following discussion), some of those laws ultimately may actually conflict with implementation of the Federal program during a severe petroleum supply shortage. In that event the conferees anticipate that such conflicts will be resolved by the courts in favor of the Federal requirements superseding those of the States.

The conferees agree that a State law which imposes price and allocation schemes similar to the Federal regulations implemented under the Emergency Petroleum Allocation Act on all or some types of petroleum products sellers within the State would be a type of "pricing or allocation" law preempted on enactment. State laws establishing set-aside programs also will be preempted under section 280(a) as a type of "pricing or allocation" law preempted on enactment. However, certain State set-aside laws may be subse-

quently exempted from preemption pursuant to subsections (b) and (c).

The conferees accordingly do not intend that the preemption test consist solely of applying the literal meanings of the terms "pricing" and "allocation". A particular State law may not necessarily be preempted, even though in a strictly technical sense it affects, whether directly or indirectly, the prices or volumes of petroleum products available within a State.

For example, recognizing that the regulations implementing the Emergency Petroleum Allocation Act included odd-even laws, the conferees nevertheless anticipate that if a court examines a State odd-even law using the criteria already discussed, the court would not be compelled to conclude that such a law is a "pricing or allocation" law within the meaning of this Part. Although in a strictly technical sense State authorized odd-even programs are allocation systems, they are expressly intended not be preempted.

Conversely, although a State law may be characterized (for example, in its title or statement of purpose) in a manner that would appear to place it among the laws not intended to be preempted under this section, a court may nevertheless conclude, after close examination of its actual effect and after applying the criteria set forth in the foregoing discussion, that the law is a "pricing or allocation" law and should therefore be preempted.

Thus, there are many types of petroleum-related State laws that would not be preempted by section 275(a) provided that such laws satisfy the criteria in the foregoing discussion so as to escape preemption. Such laws can be grouped in three categories: (1) those providing the Governor with emergency powers to respond to natural and physical disasters affecting public health and safety; (2) laws that promote energy conservation, or restrain demand for petroleum products at the retail level, but would not significantly impede the operation of the federal allocation program; and (3) laws designed to accomplish regulatory goals unrelated to emergency preparedness.

The first category would include those State laws providing for emergency allocation of petroleum products to alleviate a shortage within the State caused by damage to or destruction of facilities located within the United States and resulting from sabotage, accidents, or an act of God.

Examples of laws in the second category are those that promote the conservation of petroleum products, such as laws creating State conservation programs pursuant to the Energy Emergency Conservation Act of 1979, provided such programs do not include allocation and price controls. Also included in the second category are State laws that restrain retail demand for petroleum products, such as odd-even managment programs, minimum purchase requirements, car-less day and parking restrictions, fuel switching requirements, car pooling programs, and speed limits.

The third category would include laws that, in general, were not enacted in response to the oil emergencies of the 1970's. Examples of such laws are the following types of petroleum related laws: antitrust, anti-merger, and other State laws barring monopoly pricing or price-fixing; franchising laws; leasing laws; marketing withdrawal laws; trademark laws; licensing laws; intrastate oil pipeline

regulation; data collection or reporting requirements; maximum efficient recovery, pro-rationing, well spacing and similar oil production requirements; and tax laws, including income and severance tax laws. The conferees note these laws in general were not enacted in response to the oil emergencies of the 1970's and serve legitimate and longstanding State interests.

While there may be types of categories of laws that are determined not to be preempted by this preemption provision, no law automatically escapes preemption by virtue of the type or category of law in which it falls. It is intended that for any State or local law to escape preemption under this section it must meet all the criteria enumerated in the statute and in the foregoing discussion.

In general, it is the intent of the conferees that the decision as to when and to what extent to replace market mechanisms with mandatory price and allocation program in the petroleum industry is a Federal decision, and State laws that would usurp this Federal role are hereby preempted.

The conferees do not intend to interfere with the ongoing litigation with respect to State laws nor in any way to pre-judge the validity of laws such as State taxation laws containing anti-pass-through provisions, as in the case of *Mobil* v. *Tully,* which is currently under review regarding a New York State law.

State Set-Aside (Sec. 280(c)).—While both the House and the Senate bills contained provisions on State set-asides, the conferees agreed to a new provision that retained certain elements of the House and the Senate versions. The agreement of the conferees is that State set-aside programs are preempted at the date of enactment of this Act; however the President may, in his discretion and upon request from a State Governor of the Governor's intent to implement a State set-aside, affirmatively exempt certain programs from exemption. The burden is, therefore, on the State to seek and to make the case to the President for exemption from the Federal preemption. The conference agreement includes certain criteria which must also be met to qualify for exemption from preemption, including the requirement that the State set-aside may not unduly burden interstate commerce. It is important to note that the Governor's authority to impose a State set-aside program must be derived from State law, not Federal law.

If a Federal program for residual fuel oil or a refined petroleum product under this part is implemented in a State, then section 275(c) would control rather than this section. Section 275(c) mandates that the implemented Federal program provide for a State set-aside program.

In establishing the 5-percent limitation on State set-asides, the conferees do not intend to indicate any preference for that particular percentage. The Governor might request a lower percentage State's set-aside. The President could, in his discretion, approve or disapprove the States request in whole or in part, but he must respond within 10 days. If he approved the proposed set-aside at an earlier time than that, it could go into effect before that 10 day period elapsed.

The conferees intend that the Governor of a State will have no authority under this section to divert petroleum product destined

for sale and consumption in another State. Of course, the Governor might under State law conduct audits of prime suppliers in his State to determine if his State were obtaining the amounts of residual fuel oil or refined petroleum products which the prime suppliers had intended the State to receive. In addition, comparison of current consumption and recent historical consumption would be an appropriate factor for a court to consider in determining whether the set-aside in fact encompassed only 5 percent, at most, of the product "destined for consumption" in that State—as opposed, for example, to 5 percent of all products en route through that State.

Section 281—Contract liability

The conferees adopted the provision in the Senate bill providing for a defense to breach of contract actions.

Section 282—Effect on prior law

The conferees agreed to the Senate provision stating that nothing in this Act shall be construed to require that any action taken under this Act be taken in a manner which would have been required under the Emergency Petroleum Allocation Act.

The President's allocation authority under this Act is discretionary, not mandatory as it was under the EPAA. The fundamental concept behind the conference agreement is recognition that the nature and scope of a severe petroleum supply shortage is inherently unpredictable, and therefore, the President needs the capability and flexibility to tailor his response to the particular circumstances facing him. The basic philosophy behind this Act is broad flexibility and minimum government involvement in the marketplace.

The conferees do not intend by this provision to nullify the specific procedures specified in this Part, such as the time and manner of judicial review; Federal court jurisdiction and venue; injunction procedures; limitations on and requirements for subpoenas and civil penalties; the manner in which informal rule makings will be conducted, and data collected; the manner of congressional review; and other specific enforcement, administrative, information-gathering, and procedural matters.

Section 283—Enforcement and administration

The conferees agreed to adopt the enforcement provisions in section 7 of the Senate bill. Section 7 incorporated by reference certain provisions of the Economic Stabilization Act of 1970 relating to both enforcement and administration. Those provisions were retained, with the exception of section 205(b) (reporting requirements under the regulations of the Cost of Living Council) and section 207 (administrative procedure). With those exceptions, section 283 incorporates by reference the same provisions of the Economic Stabilization Act of 1970 that were made applicable to the EPAA.

Section 284—Information

The conferees adopted the provision in the House bill with a clarification. It was agreed that the President would be required to collect the information pursuant to existing authority.

Section 285—Coordination with other authorities

This provision provides that nothing in this part affects any authority under any other provision of Federal law to provide for the allocation or pricing of any petroleum product.

Section 286—Delegation of Presidential authorities

The conferees agreed the President may delegate all or any portion of his authority under this Act except as provided under this section.

Section 287—Expiration

The conferees selected the expiration date in the House bill, December 31, 1984. With minor modifications, the savings provision in the House bill was also adopted.

SECTION 2(b)—AMENDMENTS TO GENERAL PROVISIONS OF ENERGY POLICY AND CONSERVATION ACT

The conferees agreed to incorporate by reference certain general provisions in title V of EPCA, with the express understanding that the remaining provisions of title V will not apply to this Act. The applicable provisions are sections 521, 524 and 551, and portions of section 523. The conferees decided that with respect to section 523, subparagraph B of paragraph (a)(2) of that section would not apply.

The application portions of section 523 include the administrative procedures to be used in implementing the Act, and the provisons for judicial review. Section 523 (b) provides for judicial review in accordance with section 211 of the Economic Stabilization Act of 1970.

SECTIONS 3, 4, AND 5—STUDIES

The conferees agreed to merge the Senate and House provisions requiring the President to conduct certain studies and submit reports to the Congress. Added to the Senate provisions was the requirement in the House bill that the President analyze the impacts on the economy and consumers of reliance on the standby program during a severe petroleum supply shortage.

SECTION 6—INTERNATIONAL ENERGY PROGRAM AUTHORITIES

The conferees agreed to retain the provision in the House bill extending the expiration date of section 252 of EPCA; however, the extension period was reduced from June 20, 1985 to July 1, 1983. The conferees reached this agreement with the understanding that the Congress, prior to the new expiration date, will review the international energy program and United States participation in that program. Included in that review will be an analysis of the evolution of the International Energy Agency (IEA); a review of the agreements and commitments currently encompassed within the international energy program; an updated assessment of the size of, and rate of increase in, the strategic petroleum reserves held by each participating country; and an analysis of how such reserves would be used in the event the international energy program is activated.

Moreover, it is the intent of the Senate conferees that the Senate will maintain close and continuing oversight over all activities of the IEA, particularly those that raise issues concerning its authority and the scope of its responsibilities. Other subjects to be included in the ongoing review will be the limited antitrust defense provided to U.S. oil companies participating in the international energy program, and IEA policies concerning responses to "subtrigger" supply problems.

Strategic Petroleum Reserve

The House bill contained a provision regarding preparation of a distribution plan for use during a drawdown of the Strategic Petroleum Reserve and procedures for congressional review of that plan and of any decision by the President to draw down the Strategic Petroleum Reserve.

Although the conferees did not adopt the House provision, they agreed that this provision addressed issues that deserve the prompt attention of, and further study by, the respective Committees of the House and Senate. Indeed, both Houses have subcommittee hearings already scheduled on the SPR program.

At its current level of approximately 250 million barrels the SPR is unquestionably the world's largest stockpile of oil, now worth approximately $8.5 billion on the market but far more than that to the economic security of the United States in the event of a major petroleum supply disruption. The conferees are concerned that neither this nor prior Administrations have formulated a clear set of policies as to how the SPR oil would be drawn down and distributed in a petroleum supply disruption and, moreover, under what circumstances the President likely would exercise his authority to draw down the SPR. Clarification of these issues would enable business and government to better assess the extent to which the SPR oil would be available to them in a variety of situations, so as to facilitate emergency reponse planning by individual firms, States and localities.

Because of the importance of the SPR to our national and economic security the conferees firmly believe that the Congress should be involved in this process of generally defining the use of the Strategic Petroleum Reserve.

Another issue raised by the conferees is what, if any, is the relationship between the SPR and the potential obligations of the United States under the International Energy Agency agreements? To what extent do the other IEA member nations have oil-stock building policies? and how are those policies related to the agreements among IEA member nations?

These issues must be addressed and resolved as a prerequisite to defining the availability of oil from the SPR to the domestic economy.

Certainly the physical limitations of the SPR storage facilities themselves must be considered as well. For example, the conferees understand that there are physical limitations as to how many times certain SPR storage caverns can be drawn down and refilled. Future plans for the use of the SPR must incorporate realistic esti-

mates of how frequently the Nation could expect to turn to the SPR for oil.

The conferees consider the SPR to be a national security asset, a strategic asset that is vital to the economic security of the United States in light of our substantial dependence on foreign sources of petroleum. The use of SPR oil for nonstrategic purposes, such as a source of revenue or as a market normalizing mechanism in the absence of a crisis, is an issue of grave concern to the conferees.

The absence of clear policies on the use of this national resource might result in its misuse if drawdown and distribution policies remain largely undefined. It is with this concern in mind that the conferees raise the issue outlined herein and urge prompt congressional involvement in their resolution.

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